

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI**

NEW PRIME, INC.,

Prime,

v.

MCGRIFF INSURANCE SERVICES, INC.,  
as successor in interest to REGIONS  
INSURANCE, INC.,

and

AMWINS BROKERAGE OF THE  
MIDWEST, LLC,

Defendants.

Case No. 6:22-cv-03037-S-MDH

**DEFENDANT AMWINS BROKERAGE OF THE MIDWEST, LLC'S MOTION FOR  
SUMMARY JUDGMENT**

Comes now AmWins Brokerage of the Midwest, LLC ("AmWins"), by and through its attorneys and pursuant to Rule 56.01 of the Federal Rules of Civil Procedure hereby moves this Court for summary judgment. There is no dispute of material fact, and as a matter of law summary judgment in favor of AmWins is warranted. Plaintiff New Prime, Inc's ("Prime") claims are premised on a legal duty to advise. No such duty is recognized for insurance brokers in Missouri unless there is an extended agency agreement between the broker and the insured or there is a special relationship between the broker and the insured. Here, neither circumstance exists. Moreover, Prime attempts to assert a separate claim of negligence against AmWins based upon recommendations made after the fact once Prime had already sustained its purported damages. Not only were the recommendations correct under the law, but because the damages had already been sustained they cannot, as a matter of law, be the proximate cause of Prime's damages. For

the reasons set forth here and more fully stated in AmWins' Suggestions in Support of Summary Judgment, which are incorporated by reference herein, AmWins respectfully requests this Court grant its Motion.

WHEREFORE, Defendant AmWins Brokerage of the Midwest, LLC respectfully requests that this Court grant its Motion for Summary Judgment and for such other and further relief as this Court deems just and proper.

**HEPLERBROOM LLC**

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Midwest, LLC*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on November 10, 2023, the foregoing was filed electronically with the Clerk of Court, therefore to be served electronically by operation of the Court's electronic filing system upon all counsel of record.

/s/ Meg L. Fowler